85-783 (1)

Supreme Court, U.S.
FILED
OCT 18 1985
JOSEPH F. SPANIOL, JR.
CLERK

No. - .

In the

Supreme Court of the United States.

October Term, 1985

In Re

ANTHONY R. MARTIN-TRIGONA,
Petitioner

Petition for Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit.

Anthony R. Martin-Trigona
P.O. Box 946
Lenox Hill Station
New York, New York 10021
(212) 288-4981

APPEALS PRINTERS BOSTON, MASSACHUSETTS

QUESTIONS PRESENTED FOR REVIEW

1. May the United States Court of Appeals and the Federal Communications Commission deprive petitioner of notice and a hearing prior to revocation of his Federal Communications Commission broadcast license when the Congress, by statute, has decreed that petitioner must be afforded notice and hearing?
2. Is the Federal Communications Commission free to violate Title 11 Section 525 which bars the federal government and any agency thereof from discriminating against parties to a bankruptcy lawsuit in any proceeding concerning revocation of a broadcast license?
3. Did the Federal Communications Commission engage in "reasoned decision making" when it refused to hear an appeal from a decision of the agency staff on the merits and deferred instead to a decision of the agency staff without *de novo* determination?

PARTIES TO THE PROCEEDING

The parties to the proceeding before the Court of Appeals were:

1. Anthony R. Martin-Trigona, individually and doing business as the sole proprietorship New Haven Radio.
2. The Federal Communications Commission.
3. Daniel Meister, purported bankruptcy trustee of New Haven Radio, Inc.
4. Wardoco Broadcasting, Inc.

Table of Contents

Questions Presented for Review 1
Parties to the Proceeding 1
Table of Contents 2
Table of Authorities 3
References to Published Reports 3
Grounds on which the Jurisdiction of the Court is Invoked 3
Statutes Involved 4
Statement of the Case 5
Basis of Jurisdiction in the Court of Appeals 7
Reasons for Granting the Writ 7

I.

NEITHER THE FEDERAL COMMUNICATIONS COMMISSION NOR THE FEDERAL COURTS MAY IGNORE A STATUTORY RIGHT TO A HEARING WHICH HAS BEEN CONFERRED BY CONGRESS 7

A.

Preliminary Statement 7

B.

The Commission may not flout the Laws of Congress 8

II.
THE COMMISSION FLATLY IGNORED SECTION 525 OF THE BANKRUPTCY ACT, ONCE AGAIN BREAKING THE LAW 10

III.
THE PETITIONER WAS DEPRIVED OF "REASONED DECISION MAKING" BY THE FEDERAL COMMUNICATIONS COMMISSION 11
CONCLUSION 12

TABLE OF AUTHORITIES

In re Braniff Airways, 700 F. 2d 935 (5th Cir. 1983) 8
Chevron v. NRDC, U.S. , 104 S. Ct. 2778 (1984) 9

REFERENCES TO PUBLISHED REPORTS

The decision of the Court of Appeals is unpublished.

The decision of the Federal Communications Commission will be published, both the final version of the Reports has not yet been published.

GROUNDS ON WHICH THE JURISDICTION OF THE COURT IS INVOKED

The judgement of the Court of Appeals was entered on May 21, 1985.

A petition for rehearing was denied on July 19, 1985.

The statutory provision permitting the court to review the judgement of the Court of Appeals is 28 U.S. Code § 1254 (1).

STATUTES INVOLVED

Title 47, Section 312 (c) (d) provide as follows:

(c) Before revoking a license or permit pursant to subsection (a) of this section,...the Commission shall serve upon the licensee...an order to show cause why an order of revocation...should not be issued. Any such order to show cause shall contain a statement of the matters with respect to which the Commission is inquiring and shall call upon said licensee...to appear before the Commission at a time and place stated in the order but in no event less than thirty days after the receipt of such order, and give evidence on the matter specified therein;...If after hearing, or waiver thereof, the Commission determines that an order should issue, it shall issue such order, which shall include a statement of the findings of the Commission and the grounds and reasons therefor...and shall cause the same to be served on said licensee...

(d) In any case where a hearing is conducted pursuant to the provisions of this section, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Commission.

Title 11, Section 525 provides as follows:

...a governmental unit may not deny, revoke, suspend, or refuse to renew a license, permit, charter, franchise, or other similar grant to, condition such a grant to, discriminate with respect to such a grant against...a person that is or has been a debtor under this title...solely because such bankrupt or debtor is or has been a debtor under this title.....

STATEMENT OF THE CASE

The petitioner, Anthony R. Martin-Trigona ("petitioner") was the licensee of Radio Station WNHC (AM), New Haven, Connecticut. Petitioner operated the station initially through a corporation of which he was the sole shareholder and, after he dissolved the corporation, as a sole proprietor doing business as New Haven Radio.

In 1980, petitioner became embroiled in bankruptcy proceedings which were first initiated in Southern District of New York and thereafter transferred to the District of Connecticut.

An individual was appointed as trustee for petitioner's radio station. His name was Daniel Meister. Meister filed an application with the Federal Communications Commission ("FCC") to seize petitioner's license and to take control of the license.

Petitioner objected to the revocation of his license on two grounds: (1) Petitioner denied ever filing or authorizing to be filed any "voluntary" bankruptcy proceedings in his name. Petitioner demanded a formal hearing and specification of issues pursuant to 47 U.S. Code §312(c) at which petitioner proposed to prove that he had never filed and never authorized to be filed any "voluntary" bankruptcy case on his behalf; (2) Petitioner objected to any transfer of his license to Mr. Meister on general "public interest" grounds based on the fact that petitioner was not qualified to assume control of or operate the license, and was hostile

to the form of programming which petitioner had created to serve his license market.[1]

The FCC staff took the position that the transfer of petitioner's license was a "pro forma" matter and that he was not entitled to any hearing. In addition, the FCC claimed petitioner lacked standing to challenge revocation of his own license.[2]

The petitioner further claimed that he had a right under Title 11 U.S. Code §525 to the same treatment as any other licensee, and could not be denied a hearing or discrimination against merely because he was alleged to have become involved in a "bankruptcy" proceeding. The Commission staff rejected this argument and stated that it was not bound and would not obey or enforce or apply §525: "In any event, 11 U.S.C. §525 is a provision of the bankruptcy statutes and its interpretation is properly left to a court of competent jurisdiction."[3]

On application for review to the FCC *en banc*, the FCC refused to review the issues *de novo* and deferred to its staff, applying an FCC rule which bars relief unless an applicant for review meets restricted criteria [see Appendix page 4, paragraph 2]. The FCC affirmed the staff.

1. Petitioner had assumed a station with a "rock 'n roll" music format, and converted the station to a format oriented towards the minority community in New Haven, Connecticut. Petitioner's station was the only minority media voice in the New Haven market area.

2. In an incongruous situation, the FCC thus held that petitioner, a licensee, had *less* of a right to be heard that a member of the public, see *Office of Comm v. F.C.C.*, 359 F.2d 994 (D.C. Cir. 1966) (Burger, CJ). Petitioner was thus deprived of any right to be heard in the case.

3. FCC Staff letter/order of July 8, 1983. [The letter is not reproduced in the appendix because the FCC adopted the staff's ruling.]

On appeal to the United States Court of Appeals, the court summarily affirmed without opinion. This petition for certiorari is filed from the denial of rehearing on July 19, 1985.

BASIS OF JURISDICTION IN THE COURT OF APPEALS

The Court of Appeals has jurisdiction pursuant to 47 U.S. Code §402(b).

REASONS FOR GRANTING THE WRIT

I.

NEITHER THE FEDERAL COMMUNICATIONS COMMISSION NOR THE FEDERAL COURTS MAY IGNORE A STATUTORY RIGHT TO A HEARING WHICH HAS BEEN CONFERRED BY CONGRESS

A.

Preliminary Statement

Because of the confusion and complexity often created by bankruptcy cases, it is important to note what is *not* in controversy between the parties. Assuming *arguendo* that a lawful and proper bankruptcy proceeding had been initiated, which petitioner denies, an "estate" was created pursuant to 11 U.S.C. Code §541. The estate is comprised of "all legal or equitable interests of the debtor in property."

The Commission has consistently held over a period of decades, and held in this litigation, that a broadcast license is *not* property of the debtor and does *not* vest in any bankruptcy case or trustee. This petition, therefore does *not* turn on whether the license in question became property of the alleged bankruptcy estate because the Commission

and all parties to the proceedings agreed that it did not become property of the estate by operation of law. The Commission was required to take independent action, outside the bankruptcy proceeding, to deal with the broadcast license. Federal courts have consistently held that federal licenses do not become property of the estate without agency action, see *In Re Braniff Airways,* 700 F.2d 935, 942 (5th Cir. 1983).

B.

The Commission May Not Flout the Laws of Congress

The applicable statute could not be clearer. Section 312(c) of Title 47 U.S. Code provides that prior to revoking a station license, the Commission must afford an existing licensee notice and a hearing. The Commission's claim that in bankruptcy proceedings it has a right to ignore or dispense with §312(c) flouts the laws of Congress. Adding a bizarre patina to the FCC's action, the FCC referred to petitioner as the "former licensee" *in the very proceeding in which he was challenging the revocation of his license.* See Appendix page 3 footnote 1. It is rather bizarre when a licensee is summarily stripped of his license and referred to as the "former licensee" in the very proceeding which is reviewing staff action concerning revocation of the license. The agency treated the matter as a *fait accompli* before even deciding the issue.

The decision of the Court of Appeals cannot be explicated because there was none. But a court, no less than an agency, is bound to obey a lawful Act of Congress. Merely because a court disagrees with a congressionally mandated procedure is no excuse to ignore it or permit its violation.

The intent of Congress was clear in this case. The language requiring a hearing is beyond cavil. The burden of proof and the burden of going forward were placed on the agency, not the petitioner, 47 U.S. Code §312(d). "If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress." *Chevron U.S.A. v. NRDC,* U.S. ,104 S. Ct. 2778, 2781-82 (1984).

With due respect, any time a federal agency and a federal court of appeals flout the "unambiguously expressed intent of Congress," the case is a fit proceeding for review in this Court. In this instance, petitioner was denied any evidentiary forum to establish his claims, and summarily stripped of his license, in which he had invested years of labor and hundreds of thousands of dollars. Congress knew that from time to time licensees would be in distress and confusion would arise as to the status of a licensee; this is why it provided the express, unequivocal right to a hearing before a licensee could be stripped of his license. The action of the FCC and the Court of Appeals defy the legislature and must be reversed.

II.

THE COMMISSION FLATLY IGNORED SECTION 525 OF THE BANKRUPTCY ACT, ONCE AGAIN BREAKING THE LAW

The provisions of Section 525 of the Bankruptcy Code prohibit discrimination against any party to a bankruptcy case in the revocation, renewal or other action with respect to a license. The language of the statute, 11 U.S. Code §525 is all-inclusive and unambiguous. It applies to any and every "governmental unit." The FCC has held that it does not apply to the FCC. This is illogical.

The FCC's position blatantly defies the law and renders the intent of Congress nugatory

The agency staff stated on July 8, 1983 "In any event, 11 U.S.C. §525 is a provision of the bankruptcy statutes and its interpretation is properly left to a court of competent jurisdiction." This is nonsense. The statute applies to agencies, and governs agency proceedings.

The full Commission upheld this absurd view of the law: "In any event, as stated in the staff rulings, any discrimination supposedly commited against Trigona through any interpretation of §525 of the bankruptcy statutes is properly left to a court of competent jurisdiction."[4]

Section 525 was meant to have its primary impact and effect in administrative or agency proceedings. In this case, a federal agency totally ignored the statute and refused to apply it and abandoned the matter to a "court of competent jurisdiction," Such agency abdication cannot be upheld as agency adjudication.

4. See Appendix p. 5 ¶ 6.

It is undisputed that if a petititioner had not become embroiled in a bankruptcy proceeding he would have been entitled to and received a heaing from the agency pursuant to 47 U.S.C. §312(c). The only basis for a denial of a hearing was the bankruptcy embroilment. It was precisely such discriminatory treatment that 11 U.S. Code §525 was intended to prevent.

The agency's treatment of §525 is bizarre and irresponsible. Federal agencies are not free to ignore laws governing their conduct and to refer matters to a "court of competent jurisdiction." If a federal agency is free to flout the law, why should any agency obey the law?

The great evil in the FCC's treatment of the statute is that by depriving petitioner of a hearing, and bucking the litigation to the Court of Appeals, the FCC left petitioner without any trial level or fact finding tribunal, and left reviewing courts bereft of a meaningful agency record. The lack of a record was cr cial to petitioner's inability to convince the Court of Appeals to take action.

With all due respect, the position of the FCC makes no sense whatsoever; it defies and ignores the law and should not be permitted to stand.

III.

THE PETITIONER WAS DEPRIVED OF "REASONED DECISION MAKING" BY THE FEDERAL COMMUNICATIONS COMMISSION

It is basic administrative law that reviewing court "defer" to agency decisions in areas within the competence and statutory mandate of the agency. The FCC has extended this principle in a totally unprincipled manner, by

upholding an internal agency rule that requires the full agency to defer to staff decisions. The *en banc* order of the Commission referred to petitioner as a "former licensee" in the very proceeding which related to revocation of his license. The agency refused to review the record *de novo,* and instead applied an agency rule which requires applicants for review to essentially appeal within the context of appellate strictures. It is basic that as a litigant moves up the pyramid of appellate review, the grounds relief are narrowed. But, at the agency level, review before the agency must be and is required to be *plenary*. To suggest, as the FCC did, that petitioner was required to meet a heightened standard to secure *de novo* review before the agency renders the right to *de novo* review by the agency meaningless. The power to delegate conferred upon the Commission by 47 U.S. Code §155(c)(1)-(7) cannot reasonably be interpreted to give preclusive effect to a decision made by the agency staff.

CONCLUSION

Congress has created two bulwarks of procedural protection for broadcast licensees and debtors in bankruptcy proceedings. Both of these procedural protections were summarily ignored and violated by the FCC.

The Court is respectfully asked to grant the writ, and to reverse the FCC.

Respectfully submitted,

ANTHONY R. MARTIN-TRIGONA

October 13, 1985

United States Court of Appeals
District of Columbia

No. 84-1163 SEPTEMBER TERM, 1984

New Haven Radio, Inc. and
Anthony R. Martin-Trigona, Appellants,

v.

Federal Communications Commission
Wardoco Broadcasting, Inc., Invervenor

No. 84-1245

Anthony R. Martin-Trigona, Appellant

v.

Federal Communications Commission

Appeals from Orders of the
Federal Communications Commission

Before
Wright, Tamm,
and Wald, Circuit Judges.

Judgment

These causes came on to be heard on appeals from orders of the Federal Communications Commission and were briefed and argued by appellant Martin-Trigona *pro se* and by counsel for appellee. This court has fully considered the issues presented; they occasion no need for an opinion. *See* D.C. Cir. R. 13(c).

This court is in agreement with the result reached by the Commission in these cases, generally for the reasons stated in its Memorandum Opinion and Order released April 9, 1984, *reproduced in* appellants' Appendix at A-3—A-10.

On consideration of the foregoing, it is ORDERED and ADJUDGED by this court that the Orders of the Federal Communications Commission from which these appeals were taken are hereby affirmed.

It is FURTHER ORDERED by this court, *sua sponte*, that the Clerk shall withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing. *See* D.C. Cir. R. 14, as amended on November 30, 1981 and June 15, 1982. This instruction to the Clerk is without prejudice to the right of any party at any time to move for expedited issuance of the mandate for good cause shown.

Per Curiam
for the Court

George A. Fisher
Clerk

(stamp)
FILED MAY 21 1985

George A. Fisher
Clerk

United States Court of Appeals
District of Columbia

No. 84-1163 SEPTEMBER TERM, 1984

New Haven Radio, Inc., and
Anthony R. Martin-Trigona

v.

Federal Communications Commission
and Consolidated Case No. 84-1245

Before
Wright, Tamm,
and Wald, Circuit Judges

Order

Upon consideration of the petition for rehearing of appellants New Haven Radio, Inc., and Anthony R. Martin-Trigona, it is ORDERED, by the Court, that the petition is denied.

Per Curiam

FOR THE COURT
GEORGE A. FISHER, CLERK

Robert A. Bonner
Chief Deputy Clerk

(stamp)
FILED JULY 19 1985

Appeals Court
(Denied)

Before the
Federal Communications Commission
Washington, D.C. 20554

FCC 84-110
34378

In re Application of

Daniel Meister, Esq.,
Trustee in Bankruptcy

For Consent to the Involuntary Assignment of License of Station WNHC (AM) New Haven, Connecticut

File No. BAL-810331F0

Memorandum Opinion and Order

Adopted: March 29, 1984

Released: April 9, 1984

By the Commission: Commissioner Patrick not participating.

1. The Commission has before it an "Application for Review," filed August 8, 1983, by Anthony R. Martin-Trigona and New Haven Radio, Inc., jointly and severally, (hereinafter "petitioners"), 1/ of the Mass Media Bureau's July 8, 1983 denial of the October 6, 1981 petition for reconsideration of the staff grant of the application (File No. BAL-810331F0) of Daniel Meister, Trustee in Bankruptcy, ("Meister" or "Trustee") for involuntary assignment of the license for station WNHC, New Haven, Connecticut. 2/

1/ New Haven Radio, Inc. was the former licensee of WNHC of which Anthony R. Martin-Trigona was the president and sole shareholder.

2/ Petitioners also include as a subject for their application for review, an application for a construction permit (BP-810302AB) filed by Southern Connecticut Radio, New Haven, Connecticut. This construction permit application is one of several applications included in a hearing designation order released by the Commission on September 14, 1983. Petitioners were not granted party status in that order, and thus they have no standing to file an application for review of that hearing designation order. Also, petitioners have attached to their application for review, a stamped copy of a "Supplement to Petition for Reconsideration" dated February 24, 1982, which they state was filed at the Commission and not considered along with the October 6, 1981 petition for reconsideration. In its July 8, 1983 letter denying the petition for reconsideration, the Bureau acknowledged that on March 24, 1982, an "Application for Leave to File Supplement to Petition to Reconsideration" was filed stating that new matters had come to petitioners' attention. It was noted that no supplement was enclosed, as stated in the request, and Commission records indicate that no such pleading had been filed. Thus, the request to submit the supplement was dismissed. The supplement argues, as has been the case all along, that any applications submitted by Meister are legally void. This issue has long been debated and the Commission has found no reason to deny any application submitted by Meister. The legality and legitimacy of the appointment of Meister as trustee and any procedural flaws in such appointment are properly left to a court of competent jurisdiction. Any issues raised in the supplement do not alter the decision of July 8, 1983 denying the subject petition for reconsideration. Thus, the supplement will be dismissd as moot.

2. Section 1.115(b)(2) of the Commission's Rules state that applications for review shall specify with particularity, from among the following, the factors which warrant Commission consideration:

(i) The action taken pursuant to delegated authority is in conflict with statute, regulation, case precedent, or established Commision policy.

(ii) The action involves a question of law or policy which has not previously been resolved by the Commission.

(iii) The action involves application of a precedent or policy which should be overturned or revised.

(iv) An erroneous finding as to an important or material question of fact.

(v) Prejudicial procedural error.

3. Examination of the instant application for review indicates that the requirements of Section 1.115 have not been met. The arguments raised are largely restatements of allegations which have previously been raised and considered in the Mass Media Bureau's actions of July 8, 1983. Trigona again reiterates that he was "discriminated against" by the Commission because of his status as a bankrupt. He also states that the Commission erred when it referred to the corporation as the licensee rather than Trigona personally because the Commission had "pierced the corporate veil." He further alleges that he was deprived of a license without a hearing. He also alleges that the Commission ignored New Haven Radio, Inc.'s application for renewal of license. Furthermore, he alleges that the Commission misinterpreted bankruptcy law by allowing Nicholas J. Bua, the initial Trustee in Bankruptcy for New Haven Radio, Inc., to file an application for renewal of license.

4. The circumstances leading up to the current application for review began on September 10, 1980, when Anthony R. Martin-Trigona, on behalf of New Haven Radio, Inc., then licensee of WNHC, filed a voluntary petition for reorganization, pursuant to the Bankruptcy Code, in the United States Bankruptcy Court for the Southern District of New York. On October 10, 1980, that Court appointed Nicholas J. Bua as trustee. On December 8, 1980, Bua's appointment was terminated and Trigona was placed as debtor in possession until January 21, 1981, when Meister was approved trustee by that Court. On March 31, 1981, Daniel Meister, Trustee in Bankruptcy for New Haven Radio, Inc., filed an application for the involuntary assignment of license of WNHC, New Haven Connecticut. On May 13, 1981, Trigona filed a petition to deny against that application. By letter dated September 10, 1981, the Chief of the then Broadcast Bureau replied that such petitions do not lie as a matter of law against a *pro forma* application such as an FCC Form 316 which was used to file the involuntary assignment of license for WNHC. Nevertheless, the pleading was treated as an informal objection and fully considered on the merits. It was found that the involuntary assignment would be in the public interest, and thus the informal objection was denied and the application was granted. On October 2, 1981, Trigona filed a petition for reconsideration wherein he reitereated all of his previous allegations. The petition was denied by the Mass Media Bureau's letter of July 8, 1983.

5. As previously determined in earlier stages of this proceeding, petitioners lack standing to object to the application for the involuntary assignment of license for WNHC stemming from the bankruptcy of New Haven Radio, Inc. As stated in the prior staff rulings in this proceeding, formal petitions to deny do not lie as a matter of law against *pro forma* applications such as FCC Form 316. 3/ This basic fact has not changed.

3/ *See* Section 309(c)(2)(B) of the Communications Act of 1934, as amended; Section 73.3580(a)(2) of the Commision's Rules; and *McClatchy Newspapers*, 63 FCC 2d 669, 671 (1977).

6. In any event, petitioner Trigona reiterates allegations regarding Commission discrimination against him because of his status as a bankrupt. These allegations are meritless as the Commission has addressed petitioner Trigona's pleadings despite the fact that he was without standing to lodge any objection against the Form 316 assignment application. As determined earlier, Trigona has not been discriminated against by the Commission because of his status as a bankrupt. In any event, as stated in the staff rulings, any discrimination supposedly committed against Trigona through any interpretation of 11 USC §525 of the bankruptcy statutes is properly left to a court of competent jurisdiction.

7. Furthermore, no hearing was required in this proceeding considering the *pro forma* nature of this involuntary assignment. Neither Trigona, personally, nor the former licensee corporation, were impermissibly deprived of a license without a hearing. Any concerns that Trigona may have regarding the appointment of a bankruptcy trustee are properly left to a court of competent jurisdiction and should not be the subject of an independent inquiry conducted by the Commission. *Edward H. Dillon, Receiver,* 42 FCC 2d 203, 205 (1973).

8. Another repeated allegation in the application for review is that the Commission ignored New Haven Radio, Inc.'s application for renewal of license. As has been stated previously by the staff, Trigona and New Haven Radio, Inc. were divested of any interest in the license for WNHC. It was the duty of the trustee, and not the former licensee, to prosecute the WNHC renewal application. By force of law, Meister, at the time of his appointment as trustee, succeeded to the rights, duties and obligations of Mr. Bua, the former trustee. The fact that Bua and not Meister filed the renewal application of WNHC, is not, as Trigona insists, fatal to Meister's claim to be the proper representative of WNHC. As the Bureau's letter of July 8, 1983, points out, "[t]hat it was Bua, and not Meister, who initially filed the application is immaterial. Accordingly, the Bureau acted within the scope of its delegated authority in approving the assignment application."

9. Trigona further asserts that the Commission misinterpreted bankruptcy law in allowing Nicholas J. Bua to file an application for the renewal of the WNHC license. This allegation does not merit consideration as the Commission does not interpret bankruptcy law. Any misapplications of bankruptcy law must be considered by the appropriate forum and not by the Commission.

10. Furthermore, Trigona contends that he is the licensee of WNHC as a matter of law because the Commission pierced the corporate veil and "investigated petitioner *Martin-Trigona* personally." As we have stated repeatedly, it was the institution of voluntary proceedings involving New Haven Radio, Inc. and the subsequent involuntary assignments of the license to various trustees that took the license out of the control of the former corporate licensee. There is absolutely no merit to Trigona's contention that he has been "personally" divested of the WNHC license as the Commission has "pierced the corporate veil."

11. In view of the foregoing, the Commission finds that the application for review has failed to show how the Bureau's resolution of the above-noted issues conflicts with case precedent or Commission rules or policy. Furthermore, the application involves no question of law or policy which has not previously been resolved by the Commission, and the action taken involves no application of a precedent or policy which should be overturned or revised. Thus, we find that the Bureau correctly denied the petition for reconsideration.

12. Accordingly, the Mass Media Bureau's decision issued pursuant to delegated authority on July 8, 1983 IS AFFIRMED, and the application for review filed by Anthony R. Martin-Trigona and New Haven Radio, Inc., jointly and severally, IS DENIED.

13. IT IS FURTHER ORDERED, That the Mass Media Bureau shall send, by Certified Mail-Return Receipt Requested, a copy of this Memorandum Opinion and Order to the parties to this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

/S/

William J. Tricarico
Secretary